

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,	:	
	:	
PLAINTIFF,	:	
	:	
vs.	:	CRIMINAL NO. 04-30071-GPM
	:	
ROBERT DEXTER MCCLOUD,	:	
	:	
DEFENDANT.	:	

STIPULATED ORDER RESOLVING PETITION FOR RELIEF
AND FOR REMISSION OR MITIGATION OF FORFEITURE

MURPHY, Chief District Judge:

Upon Stipulation, the United States and General Motors Acceptance Corporation (GMAC) hereby agree, and the Court hereby orders, as follows:

1. On June 23, 2005, GMAC filed a Petition for Relief and For Remission or Mitigation of Forfeiture and For Hearing to Adjudicate Validity of Interest in Property (Doc. 376) with respect to a 2003 Chevrolet Silverado Truck, VIN: 1GCJK33123F251088. The motion is **GRANTED in part and DENIED in part** as set forth in this Order.

2. Although a "Petition for Remission" is technically a prayer for executive clemency which can only be filed with the Department of Justice and not with the Court, the parties and the Court will hereby consider the pleading in question to be instead a petition properly raised under 21 U.S.C. § 853(n)(2).

3. The United States stipulates, and the Court hereby finds, that GMAC has a valid lien

for the 2003 Chevrolet Silverado Truck, VIN: 1GCJK33123F251088, in the amount of \$44,772.05 as of August 15, 2005, and that interest is accumulating on said lien at the rate of \$6.44 per diem.

4. The United States stipulates, and the Court hereby finds, that GMAC is a bonafide purchaser for value of its lien in said vehicle and that GMAC was at the time of said purchase reasonably without cause to believe that the vehicle was subject to forfeiture.

5. The United States has incurred the following expenses with respect to the seizure, maintenance, and forfeiture of said vehicle:

\$772.00	United States Marshal storage expenses
\$112.77	DEA publication
<u>\$ 19.92</u>	United States Attorney's Office publication (pro-rated)
\$904.69	

6. After deduction of the expenses incurred by the United States and the lien of GMAC, there will probably be no equity left in the vehicle to forfeit to the United States, and the United States therefore consents to the release of the vehicle to GMAC as stated below.

7. GMAC shall tender to the United States Marshal for the Southern District of Illinois at 750 Missouri Avenue, East St. Louis, Illinois, the sum of \$904.69 and any additional expenses, if any, which are accumulated by the United States after the entry of this Order with respect to said vehicle. Upon tendering said sum, GMAC shall have the right to take possession of said vehicle and to exercise any legal rights it has with respect to said vehicle as a secured creditor. GMAC waives any claim it could assert against the United States, the United States Marshal, and any of their officers, agents, or employees arising from the seizure, storage, or forfeiture litigation against said vehicle, including but not limited to the payment of attorney's fees.

8. As a result of the Preliminary Order of Forfeiture entered on April 28, 2005, and the operation of 21 U.S.C. § 853(n)(2), the Court hereby finds that Defendant Robert D. McCloud has

no right to assert any interest in the subject-matter vehicle and that he has in fact not done so.

IT IS SO ORDERED.

DATED: 10/25/05

s/ G. Patrick Murphy
G. PATRICK MURPHY
Chief District Court Judge

Approved by:

/S/ MICHAEL THOMPSON
Michael Thompson
Assistant United States Attorney

/S/ Nelson L. Mitten w/consent
Nelson L. Mitten
Riezman Berger, P.C.
Attorney for General Motors Acceptance
Corporation